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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SCOTT MICHAEL GEORGE
DANIELS,

Defendant.

CR 20-46-M-DLC

**DEFENDANT'S
SENTENCING
MEMORANDUM**

SCOTT MICHAEL GEORGE DANIELS comes before the Court for sentencing on one count of conspiracy to possess with intent to distribute methamphetamine in violation of 21 U.S.C. § 846. The count of conviction carries a mandatory minimum sentence of 10 years imprisonment. PSR ¶ 138. However, Mr. Daniels is eligible for the Safety Valve adjustment pursuant to 18 U.S.C. §

3553(f) and USSG § 5C1.2; application of the Safety Valve yields an advisory guideline range of 63-to-78 months. (Total Offense Level 25; Criminal History Category II). Further, the Court can sentence Mr. Daniels without regard to the statutory minimum. *See* 18 U.S.C. § 3553(f).

Mr. Daniels has no objection to the content of the Presentence Investigation Report (PSR). He requests a statutory variance to a below-Guidelines sentence for all of the reasons provided in this memorandum.

ARGUMENT

A. The Guidelines and relevant sentencing statutes.

In fashioning a reasonable sentence that comports with the sentencing factors in 18 U.S.C. § 3553(a), the starting point is the Guidelines calculation. *United States v. Zavala*, 443 F.3d 1165, 1168-69 (9th Cir. 2006). Once the proper Guidelines benchmark has been calculated, the sentencing court must consider each of the § 3553(a) factors to impose a sentence sufficient, but not greater than necessary, to fulfill the purposes of sentencing. *Gall v. United States*, 552 U.S. 38, 48-51 (2007); *United States v. Carty*, 520 F.3d 984 (9th Cir. 2008) (en banc). The sentencing court enjoys broad discretion to consider, without limitation, any information concerning the background, character, and conduct of the defendant in imposing a reasonable sentence. *Pepper v. United States*, 562 U.S. 476, 488-489 (2011).

Although the Guidelines range “should be the starting point and the initial benchmark,” a district court may not presume that the Guidelines range is reasonable. *Gall*, 552 U.S. at 48; *Carty*, 520 F.3d at 991. Nor are “extraordinary” circumstances required to justify a non-Guidelines sentence. *Gall*, 552 U.S. at 47. The Guidelines are to be given no greater weight than any other § 3553(a) factor. *Gall*, 552 U.S. at 45-46, 48-51; *Carty*, 520 F.3d at 991. The sentence is ultimately reviewed for abuse of discretion and the appellate court cannot apply a presumption of unreasonableness to a sentence outside the Guidelines range. *Gall*, 552 U.S. at 50-51.

B. Mr. Daniels qualifies for the Safety Valve adjustment.

As noted in the PSR, the First Step Act expanded potential relief for defendants convicted after December 21, 2018. PSR ¶ 153. Because Mr. Daniels satisfies the criteria of 18 U.S.C. §§ 3553(f)(1)-(5) and the provisions of USSG § 5C1.2, he can be sentenced without regard to any statutory minimum. Further, he should receive a two-level reduction to his Guidelines offense level pursuant to USSG § 2D1.1(b)(18). Again as noted in the PSR, this change results in an advisory guideline range of 63-78 months (total offense level 25; criminal history category II). *See* PSR ¶ 153.

C. Mr. Daniels has done exceptionally well on pretrial release.

Mr. Daniels is 31 years old. He has been married for several years. He is raising three children – two biological children and one stepdaughter. PSR ¶ 96. The children are Mr. Daniels’ top priority and are doing well. PSR ¶ 94.

Mr. Daniels was diagnosed with ADHD and possibly autism as a child. PSR ¶¶ 102, 104. His current mental health treatment provider has suggested that many of his mental health challenges stem from PTSD related to physical abuse suffered as a child. PSR ¶ 105.

Mr. Daniels left high school early but went straight to work. He worked in the mining industry from age 18 to age 29. PSR ¶ 126. He worked for Montana Rock Works as a surface miner for 14 years. PSR ¶ 41. He was employed at a lumber mill in Columbia Falls until he lost his job due to the coronavirus pandemic. PSR ¶127. While on pretrial release, Mr. Daniels has remained gainfully employed as a contract delivery driver. PSR ¶ 130. As noted by his mother, Mr. Daniels is a very hard worker and always has been. *See* PSR ¶ 126. Mr. Daniels owns his home but is very concerned about providing for his family in light of this prosecution. PSR ¶¶ 41, 133.

Mr. Daniels has also taken the opportunity to address substance abuse issues while on pretrial supervision. Mr. Daniels attributes a relatively recent uptick in methamphetamine use to losing his job at the lumber mill. PSR ¶ 111. He enrolled

in chemical dependency treatment, graduated from an intensive outpatient drug treatment program, and continues to attend bi-weekly group counseling sessions. PSR ¶¶ 114-115.

REQUEST FOR SENTENCE AND PLACEMENT

Scott Michael George Daniels respectfully requests a below-Guidelines sentence and placement at FCI Sheridan, Oregon in order to remain close to his family in Montana.

RESPECTFULLY SUBMITTED this 4th day of May, 2021.

SCOTT MICHAEL GEORGE DANIELS

s/ Andrew J. Nelson
ANDREW J. NELSON
Assistant Federal Defender
Federal Defenders of Montana
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2021 copy of the foregoing document was served on the following persons by the following means:

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1. CLERK, UNITED STATES DISTRICT COURT
2. JENNIFER CLARK
Assistant U.S. Attorney
Counsel for the United States of America
3. SCOTT MICHAEL GEORGE DANIELS
Defendant

By: /s/ Andrew J. Nelson
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